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UNCLAS SECTION 01 OF 07 BAGHDAD 000493

SIPDIS
SENSITIVE

STATE FOR G/TIP, G-ACBLANK, INL, DRL, PRM, AND NEA/RA

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TAGS: [KTIP](#) [KWMN](#) [PHUM](#) [ELAB](#) [KCRM](#) [KFRD](#) [PREF](#) [SMIG](#)
SUBJECT: BAGHDAD TRAFFICKING IN PERSONS RESPONSES

REF: A. STATE 132759
[1](#)B. BAGHDAD 328

[1](#)1. (SBU) Summary and recommendations: This is Post's summary of trafficking in persons (TIP) activities for the period April 2008-February 2009. Some progress has been noted since the previous report in that a few GOI officials privately acknowledge the existence of a TIP problem. In addition, the Council of Ministers Secretariat (CoMSec) Legal Advisor's Office is drafting a comprehensive anti-TIP law. Post strongly recommends that Iraq continue to be treated as a special case during this rating period and not be tier-ranked. The GOI's ability to effectively investigate and prosecute TIP offenders and to assist victims is hindered by lack of institutional capacity and expertise. Despite scoring substantial security gains, Iraqi Security Forces (ISF) continue to be fully engaged in fighting the insurgency, and this will continue to be their strategic priority. In addition, the GOI has a full slate of high-priority legislation to pass in the near term, including a new national elections law, a hydrocarbons law, constitutional amendments and a resolution of the Kirkuk issue. It is Post's assessment that the above bills are the GOI's appropriate primary near-term legislative priorities. End summary and recommendations.

[1](#)2. (U) The responses in this paragraph are keyed to the questions in ref A paragraph 24.

(A) Sources of information about TIP in Iraq are NGOs, some GOI ministries, media reports, USG agencies and USG contractors. NGOs generally offer anecdotal evidence and usually cannot cite specific cases. Furthermore, many Iraqi NGOs lack a clear understanding of what constitutes human trafficking and are therefore unable to identify or track cases. Some GOI officials acknowledge a TIP problem, but confirm there are no official statistics and that no GOI agencies currently track information on TIP. An anti-TIP law currently being drafted by the Legal Advisors' Office of the CoMSec provides for tracking and documenting of TIP cases, coordinated among relevant GOI ministries.

(B) Iraq is both an origin and destination country for

international trafficking for men, women and children. There has been a credible report of women trafficked by the director of a women's shelter in Kurdistan, which was subsequently closed. Young women were most often trafficked within Iraq, but also to the Gulf states (Kuwait, Qatar, and the UAE), and Jordan and Syria for the purpose of forced marriage or prostitution and/or domestic servitude. Reportedly, some laborers and domestic workers are tricked by labor brokers in their home countries into believing they were getting jobs in one of the Gulf states or Jordan, but then find themselves in Iraq with little choice but work on terms resembling forced labor. Others are aware they are coming to Iraq, but once in-country find that their terms of employment are quite different than what was promised. On April 23, 42 Bangladeshis were repatriated with the help of the International Organization for Migration (IOM) after being trafficked into the country ostensibly for work. Those who returned estimated that about 10,000 more Bangladeshis were still in the country without jobs or proper documentation and claimed that agents seized passports from workers in and around Kurdistan. On August 14, press reports indicated that 43 Nepalis were repatriated after allegedly coming to Iraq for work, but upon arrival had their passports seized and were forced to live in one hotel room.

Men from Nepal, Bangladesh, India, and Sri Lanka are sometimes brought to Iraq by free-lance labor brokers at the behest of contracting companies, but find upon arrival find that the jobs they expected (often for USG subcontractors) are contingent on contracts that have not yet been awarded

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and may never be. In this case they may be held by the contracting company without pay and in living conditions far below those stipulated by international labor law. In December, IOM began investigating the cases of nearly 1,000 third country nationals (TCNs) who had been subjected to such conditions and forced to live (without jobs or compensation) for months in makeshift camps near the Baghdad International Airport. These TCNs came to Iraq with the expectation that they would have a job working for a USG contractor. IOM facilitated the repatriation of many of these TCNs, while the rest eventually found employment.

(C) Victims are trafficked into involuntary domestic servitude, forced labor, forced marriage, and prostitution.

(D) Iraqi and non-Iraqi women are at high risk for trafficking. Among foreign workers, adult men and women may be at equal risk, as there are many male foreigners working in conditions that resemble trafficking.

(E) Traffickers are predominantly male, but sometimes female family members traffic their own offspring or relatives. (This happens, for example, in the context of forced marriages.) Traffickers include both large crime groups and small family-based groups, including businesses such as employment agencies and women's beauty salons. An NGO in Kurdistan reports that young women may frequent such salons and are encouraged to accrue debt for treatments. When they cannot pay the accumulated bills, the salon owners constrain them to work in prostitution to pay off the debt. The women are vulnerable because their families do not know they were running up debts. The owner may also threaten to inform the police as a way to collect the money. Some jewelry shop owners engage in similar practices. A legal advisor to the CoMSEC noted that poverty and unemployment force some Iraqis to either become TIP victims themselves, or to facilitate TIP with regard to family members. For example, a poor family may give a daughter in marriage to someone who takes the girl out of the country, most typically to one of the Gulf states, where she may be forced into prostitution and/or domestic servitude.

13. (U) The responses in this paragraph are keyed to the

questions in reftel paragraph 24.

(A) The GOI does not officially recognize TIP as a problem, but increased awareness and concern of some Ministry of Human Rights (MoHR), Ministry of Labor and Social Affairs (MoLSA), and Ministry of the Interior (MoI) officials, and officials in the CoMSeC over the past year led to the drafting of an ambitious anti-TIP law which addresses the investigation and prosecution of TIP offenders, provides for stiff sentences and fines if they are convicted, and assistance and rehabilitation measures for victims. (Note: Post's Office of Constitutional and Legal Affairs is reviewing the law and QConstitutional and Legal Affairs is reviewing the law and offering commentary and technical assistance; both are welcomed by the chief drafter. End note.) The chief drafter has predicted it would take a year to enact the law.

Article 6 of the draft law specifies the ways the government is obligated to assist victims, including by providing medical care, and legal counseling. The law also stipulates that victims must be provided with shelter appropriate to their sex and age group, physical and mental rehabilitation, and educational and job training opportunities. As for foreign TIP victims, the law requires that the authorities provide them with language and legal assistance and facilitate their repatriation.

Article 7 of the draft law calls for establishment of a "Higher Committee on Human Trafficking" to be headed by a Deputy Prime Minister and include representatives from the following ministries: Interior, Migration and Displacement,

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Foreign Affairs, Justice, Health, Labor and Social Affairs, Human Rights, Finance, and from the national intelligence agencies. The Committee would report to the CoM and be tasked with developing plans and programs to combat TIP, make recommendations to combat human trafficking and follow up on their implementation, coordinate efforts to help victims. Provincial sub-committees would be formed and include representatives of all of the aforementioned ministries.

(B) No GOI agencies are currently involved in specifically anti-TIP efforts. A senior MoI official recently stated that the GOI does not track or investigate TIP as a separate crime, which makes it difficult to gauge the extent of the problem. The official added that the lack of law enforcement concerning TIP is due to the fact that Iraq continues to have a "war mentality" in which murder, kidnapping and corruption are the overwhelming concerns and crimes such as TIP and drug trafficking receive little or no attention.

(C) The GOI has limited ability to fully enforce the law anywhere in the country, making the challenge of addressing human trafficking extremely difficult. Unofficial sources claim government corruption is high. Funding for police and ministries was inadequate to take on more than fulfilling basic functional needs. The chief drafter of the aforementioned anti-TIP law emphasized that the GOI has only weak control of Iraq's borders with its neighbors and administrative corruption at border crossings aggravates the problem. The GOI has not yet allocated any funds to specifically assist victims of trafficking, but also did not effectively manage other programs that assist victims of general human rights abuses. For example, while there are a few women's shelters in the north (Kurdistan region), Baghdad and the rest of the country have none. Patriarchy and discriminatory attitudes toward women and girls also hinder effective anti-TIP action.

(D) The GOI does not systematically monitor its anti-trafficking efforts on any front.

14. (U) The responses in this paragraph are keyed to the questions in reftel paragraph 25.

(A) Iraq does not currently have any laws that specifically address TIP. Article 37(3) of the Iraqi Constitution prohibits "forced labor, slavery, slave trade, trafficking in women or children, and sex trade." The law is not specific in its application to internal or external forms of trafficking. CoMSeC is currently drafting a comprehensive anti-human trafficking law (see para 3(A)), which provides for stiff penalties (including the death sentence, if the trafficking victim should die as a consequence of being trafficked), for anyone who engages in or facilitates TIP.

Trafficking is not directly addressed in the 1969 Iraqi Penal Code, however there are at least a handful of articles that could be applied in certain circumstances. Article 399 of the Penal Code punishes "any person who incites a boy or girl under the age of 18 to indulge in fornication or resort to prostitution as a profession or assists him or her to do so."

Articles 421, 422, and 423 of the Penal Code prohibit unlawful seizure, kidnapping, and detention. Notably, The Code prohibits not only seizure, kidnapping, and detention by force, but also by deception. Article 425 punishes "any person who provides a location for unlawful detention or imprisonment while being aware of the fact."

Article 320 of the Penal Code might be used to punish public officials who employ trafficked persons.

To the best of our knowledge, no trafficking cases were tried under any law during the reporting period.

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(B) Article 399 of the Penal Code stipulates a prison sentence not to exceed ten years for "Incitement to Prostitution and Fornication" when the victim is under the age of 18. Article 393 lists aggravating factors, such as the victim's age, the number of perpetrators, the victim's virginity, the relationship between the offender and the victim, and whether the victim died, became pregnant, or contracted a sexually transmitted disease as a result of the act. If such factors exist, it appears that the court has the authority to increase the sentence.

Although not specific to trafficking for sexual exploitation, Articles 421, 422, and 423, which cover unlawful seizure, kidnapping, and detention could have implications for traffickers. Sentences called for in these articles vary depending on the age and gender of the victim, but generally range between a maximum of 10-15 years. Aggravating circumstances, such as deception, can increase the sentence, and any case involving sexual intercourse with the victim can result in life imprisonment or death. Article 425 calls for a period of imprisonment not to exceed seven years for anyone who provides a location for unlawful detention.

(C) Article 320 of the Penal Code calls for a prison sentence not to exceed 10 years for public officials who employ "slave labor" or who retain employee wages unlawfully. However, this crime is only applicable to public officials and agents, and is therefore unlikely to be broadly applicable against labor recruiters or labor agents. There appear to be no criminal laws specifically pertaining to labor recruiters or labor agents.

In December, the Kurdistan media reported that the Kurdistan Regional Government (KRG) Prime Minister held a meeting to discuss a request by the KRG Ministry of Labor and Social Affairs (MoLSA) to regulate entry of foreign workers into the Kurdistan region and monitor their treatment. According to the report, several employers who had been violating workers' rights had been arrested. A lawyer working for an NGO commented that some lower-level people may have been arrested in order to make an example of them. A follow-up inquiry with the KRG MoLSA (by the same lawyer) revealed that some

illegally operating employment agencies had received warnings, and that MoLSA had issued a regulation requiring such agencies to obtain MoLSA approval before being permitted to bring in foreign workers. The KRG MoLSA official added that the KRG plans to draft a more comprehensive labor law that will also apply to foreign workers.

(D) Rape is prohibited by Article 393 of the Penal Code; its penalty is life imprisonment or a period determined by the Iraqi court. This penalty is stricter than that for those who commit sexual exploitation.

(E) The GOI did not prosecute any cases against human trafficking offenders during the reporting period.

(F) The GOI did not provide any specialized training for government officials to increase their ability to recognize, investigate, or prosecute instances of trafficking.

(G) The GOI did not cooperate with other governments in the investigation of trafficking cases.

(H) The GOI did not extradite any persons charged with trafficking in other countries. The government is prohibited from extraditing Iraqi citizens by Article 21(1) of the Constitution.

(I) There is some anecdotal evidence of involvement in or tolerance of TIP by KRG officials. An NGO source in Kurdistan reported that a women's shelter in Erbil was closed

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because the director was accused of trafficking. According to the NGO source, an official KRG investigation into the matter was suppressed because high-level KRG involvement could have been revealed. The director of the shelter reportedly left the country.

Anecdotal evidence also exists regarding possible involvement of Iraqi immigration officials in the seizing of TCN passports at Baghdad International Airport.

(J) No GOI officials have been investigated or prosecuted for involvement in TIP. If the KRG has taken any sort of action to halt officials' alleged facilitation of TIP (as mentioned in (I)), the nature and extent of such actions have not been made public.

(K) The act of prostitution is criminal in Iraq. Brothel owners can be prosecuted under Article 425 in the Iraqi penal code under certain circumstances. Pimps can be prosecuted under Article 399. There are no laws prohibiting solicitation.

(L) This question does not apply to the TIP report for Iraq.

(M) Iraq continued to attract little tourism. Religious pilgrimages continued to be the major portion of tourism. There were no reports of sex tourism within Iraq.

15. (SBU) The responses in this paragraph correspond with those questions in reftel paragraph 26.

(A) The GOI did not assist foreign victims of trafficking by providing permanent residency status or other relief from deportation.

(B) The GOI did not have victim care facilities which are accessible to trafficking victims. The country did not have specialized facilities dedicated to helping victims of trafficking. The GOI did not offer legal, medical, or psychological services to victims. While foreign victims may have access to shelters, they have no protection under Iraqi laws. There are currently six shelters in Iraq, all in the north (Kirkuk, Sulaimaniyah, Duhok, Erbil), which provide

shelter to female victims of gender-based violence (GBV) or those threatened by GBV. They receive some support from the KRG.

(C) The GOI did not provide funding or other forms of support to foreign or domestic NGOs or international organizations for services to trafficking victims.

(D) There was no system for law enforcement or social services personnel to identify trafficking victims or to refer them to protective custody.

(E) This question does not apply to the TIP report for Iraq.

(F) Post has no knowledge of the GOI prosecuting any cases against human trafficking offenders. A few NGOs alleged that the arrest of 90 women in the Kurdish region indicated trafficking from small towns. The KRG has not yet arrested anyone for pimping.

(G) The GOI does not encourage victims to assist in the investigation or prosecution of trafficking. There was no victims' restitution program.

(H) The government did not provide protection for victims.
Q(H) The government did not provide protection for victims. The government does not provide shelter, housing benefits, or other resources to victims in rebuilding their lives. Minors were placed in women's or juvenile prisons.

(I) The government did not provide any specialized training

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for government officials to identify trafficking victims, whether adult or juvenile. It does not provide training on protections and assistance to its embassies and consulates in foreign countries that are destination or transit countries. It does not urge those embassies and consulates to develop ongoing relationships with NGOs and IOs that serve trafficked victims.

(J) The GOI did not provide assistance to repatriated nationals who have been victims of trafficking.

(K--SBU) A few non-governmental and international organizations (noted below) assisted trafficked victims and do not wish to be publicly identified for fear of persecution.

The Asuda Organization for Combating Violence Against Women provided some assistance to trafficking victims. It runs a shelter in Sulaymaniyah and continued to provide some training and rehabilitation programs. It is not supported financially by the GOI.

American NGO Heartland Alliance provides legal and social protection service to trafficking victims and is monitoring trafficking in persons in the north of Iraq - Sulaimaniya, Erbil, Duhok, and Kirkuk, as well as Baghdad and Basra. Heartland is funded by the USG and private donors, and receives no financial or material support from the GOI.

The International Organization for Migration (IOM) also closely monitored reports of trafficking within Iraq. Although it is based out of Amman, Jordan, IOM's local staff works within Iraq to document the scope of trafficking victims. The IOM has also assisted third country nationals who had been trafficked to Iraq by returning them to their country of origin.

16. (SBU) The responses in this paragraph correspond with those questions in reftel paragraph 27.

(A) Except for a handful of officials, the GOI was unaware of the scope of the TIP problem within Iraq. Therefore, it does not publicly acknowledge that TIP is a problem. Local governments have repeatedly insisted that trafficking is not

a problem within their jurisdiction. There were no government-run anti-trafficking campaigns or information disseminated by the GOI. Though the Ministry of Human Rights and the Ministry of State for Women's Affairs have in the past both expressed interest in running such a campaign, neither has done so due to budgetary constraints and a lack of cooperation within the GOI. (Note: The Minister of State for Women's Affairs resigned on February 5, citing her ministry's lack of resources and miniscule budget--ref B. End note.)

(C) There was no formal relationship between GOI officials and organizations within the civil society community on TIP issues.

(B) There was no formal monitoring of immigration or emigration patterns for evidence of trafficking. A significant level of internally displaced persons (IDPs) and refugees moving within Iraq and across its borders made this a significantly difficult task. Law enforcement officials did not screen for victims of trafficking. The borders of Iraq remained generally unsecured, due to understaffing and limited patrol outside of border entry points.

(C) There was no mechanism for cooperation or coordination among agencies within the GOI. There was no working group or task force that focused on TIP issues. (Note: The only indication of coordination among agencies within the GOI is the anti-TIP law drafting project. The ComSec Legal Advisor's office indicated that the MoI and MoLSA were

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consulted in the drafting process. End note.) The Commission on Public Integrity was tasked with investigating cases of official corruption.

(D) The GOI does not have a national plan of action to address TIP.

(E) The GOI has not taken any significant measures to create an awareness program that educates clients of the sex trade or potential sex trafficking victims nor one that targets those who create the demand for the sex trade.

(F) This question does not apply to the TIP report for Iraq.

(G) This question does not apply to the TIP report for Iraq.

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18. (SBU) Poloff spent 40 hours preparing this report.
BUTENIS